

REMARKS

The above amendments and following remarks are submitted to be fully responsive to the Office Action mailed August 29, 2006. It is further submitted that this response is timely filed within the three-month shortened-statutory period. Applicants believe that no other fee should be required for the filing of this response, however, should any other fee be required, the Commissioner is authorized to charge Kagan Binder Deposit Account No. 50-1775 and thereafter notify us of the same. Reconsideration of all outstanding grounds of the rejection and allowance of the subject application are believed in order and respectfully requested.

With this response, claims 25, 27, 29 and 30 have been amended to correct typographical and/or grammatical errors, and thus, no new matter is presented by these amendments.

The Examiner has rejected claims 29 and 30 under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement, and has additionally rejected claim 30 under 35 U.S.C. 112, second paragraph. The preamble of claims 29 and 30 have now been amended to properly recite that the systems recited therein are useful for the determination of the viscosity of a sample. It is respectfully submitted that these amendments render these rejections moot.

The Examiner also objected to claims 25 and 27 because of the following informalities:

- (a) Claim 25: in line 4 “space” should be --spaced--; and
- (b) Claim 27: in line 7 “on” should be --one--.

In response, Applicants’ have amended claims 25 and 27 in accordance with the Examiner’s recommendations, thereby presumably overcoming this objection.

Turning to more substantive matters, the Examiner has rejected Claims 21-30 under 35 U.S.C. 103(a) as being unpatentable over Jina (US 6,060,323) in view of Hodges et al. (WO 9700441 A1). This rejection is respectfully traversed.

In efforts to substantiate this rejection, the Examiner painstakingly cites numerous passages of both the Jina and Hodges references in connection with virtually each limitation of each rejected claim. However, and no matter how desperately the Examiner tries to piece

together the rejection, no citation or assertion can make up for the fact that Jina teaches against using any other structure than that which is taught in connection with an electrochemical method for determining the viscosity of a sample. As such, it simply does not matter what structure Hodges et al teaches, since one of ordinary skill in the art referring to the teachings of Jina would not be motivated to attempt to use another electrode structure than the side-by-side structure that is taught therein, much less one that is taught to be useful for a completely different purpose, as in Hodges.

More particularly, the Jina reference states that "Many studies of blood coagulation have attempted to demonstrate that measuring blood resistance detects clotting time and obtains a quantitative measurement of the rate of clot retraction. The results were usually not reproducible and there was considerable variation and inconsistency in most methods in common use". Critical emphasis was placed upon the geometric orientation of the cell within which a pool of the blood sample was retained and the electrodes." Jina, column 2, lines 31-41, emphasis added. It is in light of these teachings that Jina developed and discloses the particular electrode arrangement taught therein, i.e., side-by-side electrodes on a non-porous surface.

Moreover, the completely different electrode arrangement taught by Hodges is directed to an entirely different purpose, i.e., the determination of a redox species, such as glucose, in solution. There is no teaching, disclosure or even suggestion of utilizing the electrode arrangement taught therein for any other purpose, much less for the determination of the viscosity of a solution.

In conclusion, there is no motivation to combine the electrode structure taught by Hodges with the teachings of Jina inasmuch as the two references are directed to completely different analysis. Further, Jina teaches that previous attempts to utilize measurements of blood resistance to detect clotting time had been unsuccessful and that these previous failures had led to the conclusion that geometric orientation of the electrode cell was critical. Withdrawal of the rejection of claims 21-30 as obvious over this combination of references is thus appropriate and is respectfully requested.

Conclusion

In view of the above remarks, it is respectfully submitted that the claims and the present application are now in condition for allowance, which allowance is earnestly solicited. The Examiner is invited to contact the undersigned, at the Examiner's convenience, should the Examiner have any questions regarding this communication or the present patent application.

Respectfully Submitted,

Dated: 11/29/06

By: K. Jordahl
Kimberly S. Jordahl Reg. No. 40,998
Customer No. 33072
Phone: 651-275-9809
Facsimile: 651-351-2954

#30838